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October 27, 2011

VIA ECF AND REGULAR MAIL

Honorable Joseph F. Bianco
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Executor of the New York Estate of Celia Kates, Philip Barash, et al. v.
Pressly & Pressly, P.A. and James G. Pressly, Jr. Esquire*
Case No : 11-3221
Our File No. : 10 1463 95327

Dear Judge Bianco:

We represent defendants, James G. Pressly, Jr., Esquire and Pressly & Pressly, P.A. (collectively "Mr. Pressly"), with respect to the above-referenced matter.

We are in receipt of the "Reply to the Order of This Court Dated October 6, 2011" (the "Reply") filed by plaintiffs, Executor of the New York Estate of Celia Kates, Philip Barash, Beneficiary of the Irving G. Kates New York Trust, Sandra Barash (collectively, "plaintiffs"). As the Court is aware, on October 6, 2011, Your Honor issued an Order directing plaintiffs to retain counsel within thirty (30) days of the date that plaintiffs are served with notice of entry of the order. Plaintiffs were served the Order with notice of entry on October 18, 2011. The Order also provides that if plaintiffs fail to comply with the Order within the time allowed, the Court will dismiss the Complaint.

Rather than retain counsel or withdraw the Complaint, Mr. Barash has served an amended signature page to the Complaint wherein he seeks to demonstrate that he is not representing the Estate. *See* Docket #16. However, as noted throughout the Court's Docket (*see* Docket #6, 11, 12 and 13), all filings in this matter have been made by Mr. Barash himself. As such, despite the fact that he has submitted a new signature page to the Court, he is in fact representing the Estate.

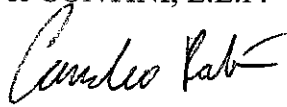
Furthermore, this Court directed that once plaintiffs retain counsel, they are to show cause why the Court has subject matter to adjudicate their claims and why the claims are not barred by *res judicata*. In complete disregard of Your Honor's October 6, 2011 Order, plaintiffs themselves have addressed the aforementioned issues in their Reply.

Based upon plaintiffs' failure to comply with the October 6, 2011 Order, we respectfully request that the Complaint be dismissed in its entirety. In the alternative, if the Court accepts plaintiffs' Reply, we respectfully request that the Court issue a briefing schedule to allow our office to address the claims made by plaintiffs in their Reply.

Thank you for your consideration.

Respectfully Submitted,

L'ABBATE, BALKAN, COLAVITA
& CONTINI, L.L.P.



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CBR:pd

cc: **BY REGULAR MAIL**

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